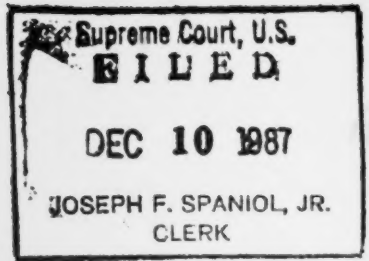


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NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1987

ROY LEE HOSCH

Petitioner

V

MARY LUCILLE GRIFFIN HOSCH

Respondent

PETITION FOR WRIT OF CERTIORARI TO THE
GEORGIA COURT OF APPEALS

COUNSEL FOR RESPONDENT:

PETITIONER:

Mr. Lanier Randall
Suite 308
Summit South Building
777 Cleveland Avenue, S.W.
Atlanta, Georgia 30315

Roy Lee Hosch
2418 Stone Road
Apartment 4
East Point, Georgia
30344
(404)762-5915

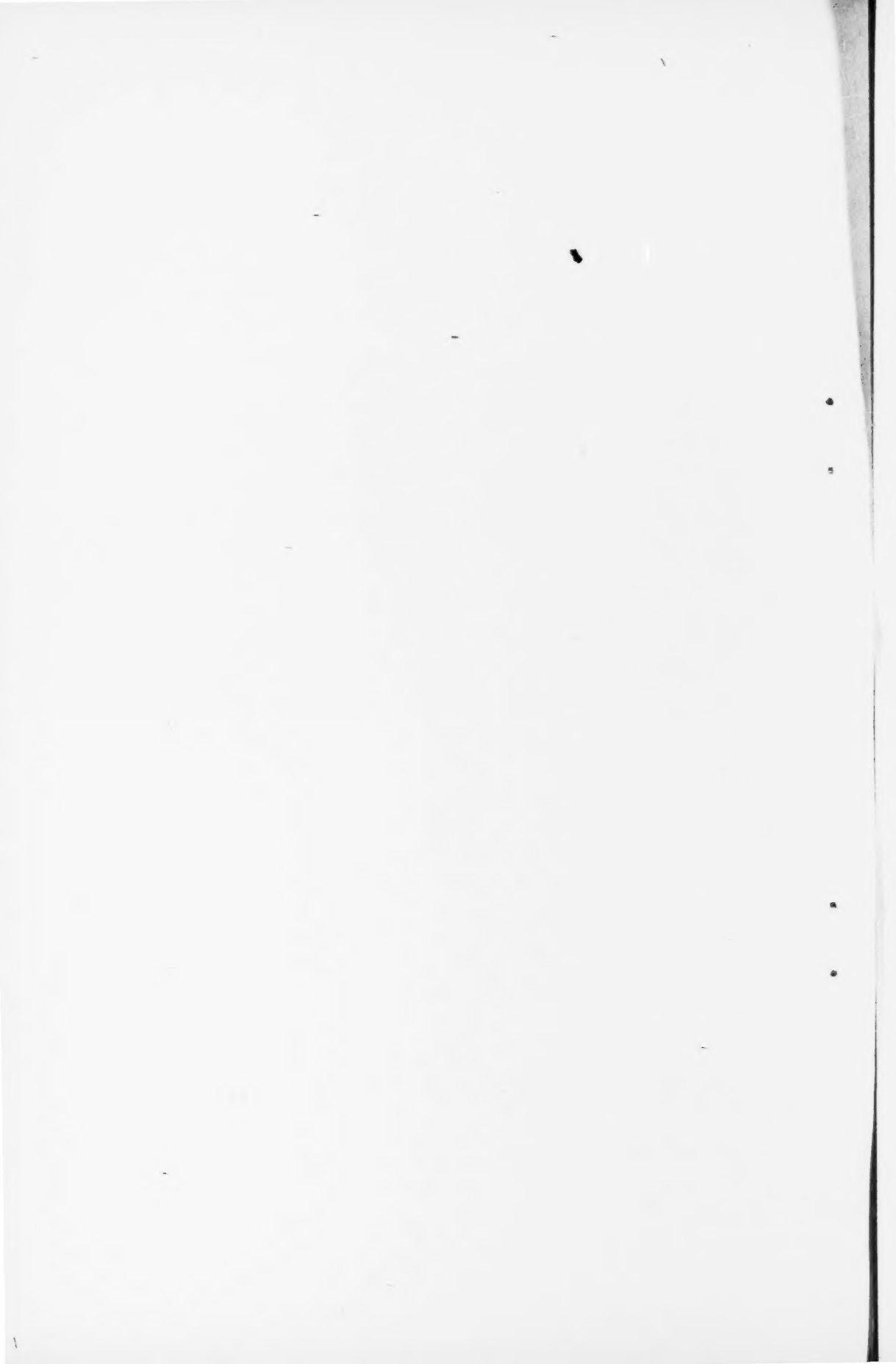
QUESTIONS PRESENTED FOR REVIEW

1.

Can a court legally dismiss a case by citing procedures that are not required by the controlling statute in the case or the court rules, especially when the opposing parties' pleadings are legally insufficient?

2.

Does the manner in which this petitioner's appeal was dismissed constitute a denial of access to the court in violation of Amendment 5 and 14 of the United States Constitution?



STATUTES AND AUTHORITIES

	<u>Page Reference</u>
<u>Statute</u>	
Amendment 5 of the U.S. Constitution	
1. General reference	7
2. Note 8, page 429	8
3. Note 19, page 440	3
4. Note 22, page 444	3
Amendment 14 of the U.S. Constitution	
1. General reference	6
2. Note 147, pages 117 and 118	3
Official Code of Georgia (OCGA.)	
1. 5-6-35, pages 325 and 326	5,6,8,9
2. 9-11-8, page 57	9
Court Rules	
Georgia Supreme Court Rule, Division IV pages 3 and 4 (August 1986)	K-1,K-2
Georgia Court of Appeals Rule 40, pages 19 and 20 (March 1, 1985)	G-1,G-2,G-3



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2. Index of Authorities	ii
3. Petition for Writ of Certiorari	1
4. Opinion Below	2
5. Jurisdiction	2
6. Constitution Provision Involved	3
7. Statement of the Case	4
8. Reason for Granting Writ	8
9. Conclusion	9

NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES

ROY LEE HOSCH

Petitioner.

v.

MARY LUCILLE GRIFFIN HOSCH,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE
GEORGIA COURT OF APPEALS, STATE OF GEORGIA

The petitioner, Roy Lee Hosch, respectfully prays that a writ of certiorari issue to review the judgment of the Georgia Court of Appeals entered on 15 September, 1987.

28 U.S.C. 2403 (b) may be applicable and shall be served upon the Attorney General of the State.



OPINION BELOW

The Georgia Court of Appeals entered a decision dismissing the petitioner's appeal on 15 September, 1987. A copy of the decision is attached as Appendix A.

The court denied petitioner's "motion for rehearing" on 29 September, 1987. A copy of the order is attached as Appendix B.

The petitioner petitioned the Georgia Supreme Court for a writ of certiorari. The petition was denied on 28 October, 1987. A copy of the judgment is attached as Appendix C.

JURISDICTION

On 15 September, 1987, the Georgia Court of Appeals dismissed the petitioner's appeal (Appendix A). The jurisdiction of this Court is invoked under Amendment 5 of the United States



Constitution, note 19; "The obligation to afford due process rests equally with both federal and state courts."

No other petitioner is involved in this petition.

CONSTITUTION PROVISION INVOLVED

1.

United States Constitution, Amendment 5:

note 22; Due process of law requires that court scrutinize police action with finer comb when child is involved.

United States Constitution, Amendment 14:

note 147; The right to sue and defend in the courts is the alternative to force. In an organized society it is the right conservative of all other rights and lies at the foundation



of orderly government. It is one of the highest and most essential of citizenship, and must be allowed by each state to the citizens. Equality of treatment in this respect is not left to depend upon comity between the states, but is granted and protected by this amendment.

STATEMENT OF THE CASE

This petitioner filed an appeal of an Attachment For Contempt of visitation motion, which was denied him on 15 May 1987 (Appendix D), pursuant to the visitation clause of the Final Judgment And Decree (Appendix E, paragraph 1).



A petition for appeal and brief were filed on 14 August, 1987, in accordance with OCGA. 5-6-35 subsection (b), (see Appendix F); and Rule 40 of the Georgia Court of Appeals, (see Appendix G).

The respondent, with counsel, simultaneously file a "post-dated" brief and motion to dismiss the appeal on 8 September, 1987, which was dated for service for 9 September, 1987. The respondent alledged, in her brief, that an application had not been served in accordance with OCGA. 3-6-35 (a).

A response to the motion to dismiss was filed on 14 September, 1987, in which the petitioner showed that he made application in accordance with OCGA. 5-6-35 subsection (b) (ref. Appendix F) by "petition enumerating the errors," and addressing the post-dated service and filing and other issues.



The court entered a judgment (Appendix A) on 15 September, 1987, dismissing the appeal (the day after the petitioner filed his response to the motion to dismiss.) The court ruled that the case can only be reviewed by "application for discretionary appeal" and cited OCGA. 5-6-35 (a)¹ (2).

A motion for rehearing was filed on 21 September, 1987, in which the petitioner raised the issue of his 14th Amendment "right to access" to the court. The motion was denied on 29 September, 1987, (ref Appendix B).

1/ OCGa. 5-6-35 (a) (2), (ref. Appendix F-1), identifies cases that fall under that statute. Subsection (b) sets forth the procedure to follow when filing an appeal.

Georgia Court of Appeals Rule 40 (ref. Appendix G) says that procedure is provided in OCGA 5-6-35.



Notice was given on 6 October, 1987, and application made with the Georgia Supreme Court on 15 October, 1987, for a writ of certiorari to the Court of Appeals. The issue of 5th Amendment "right to due process" was raised at this time because the court of appeals acted on it's own motion; and the 14th Amendment "right to access" to the court was again raised. The application was denied on 28 October, 1987, (ref. Appendix C).

Notice of intent to apply for a writ of certiorari with this Court was filed on 13 November, 1987. The Court of Appeals denied petitioner's remittitur on 30 November, 1987 (Appendix H) and notice of entering on file in the Superior Court given to petitioner on 11 December, 1987, (Appendix I).

REASON FOR GRANTING THE WRIT

The United States Constitution, Amendment 5, note 8, page 429 says "Due process of law under this amendment and amendment 14, require that action by a state through any of its agencies must be consistent with fundamental principles of liberty and justice which lies at base of our civil and political institutions and which are designated as the law of the land."

The dismissal of this petitioner's appeal for not following procedures by not filing an application for discretionary appeal is not consistent with the guidelines provided in OCGA. 5-6-35 (b) (ref. Appendix F) and Georgia Court of Appeals Rule 40 (ref. Appendix G).

This petitioner did make application by "petition" as required by OCGA. 5-6-35 (b)



(Appendix F), and Court of Appeals Rule 40 (Appendix G). The Court's attention is directed to "Enumeration Of Errors" (Appendix J), in which the court was "petitioned for leave to appeal", OCGA. 9-11-8 page 57 annotated- Substance rather than nomenclature, of legal pleading determined their nature. Cotton v Federal Land Bank, 246 Ga. 188, 269 SE 2nd 422 (1980).

It should be noted that Georgia Supreme Court Rules, Division IV, (Appendix K), places OCGA. 5-6-36 in a discretionary posture.

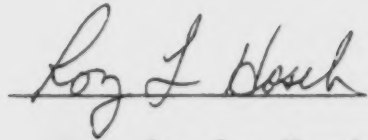
CONCLUSION

For the forgoing reasons, petitioner Roy Lee Hosch respectfully requests that a writ of

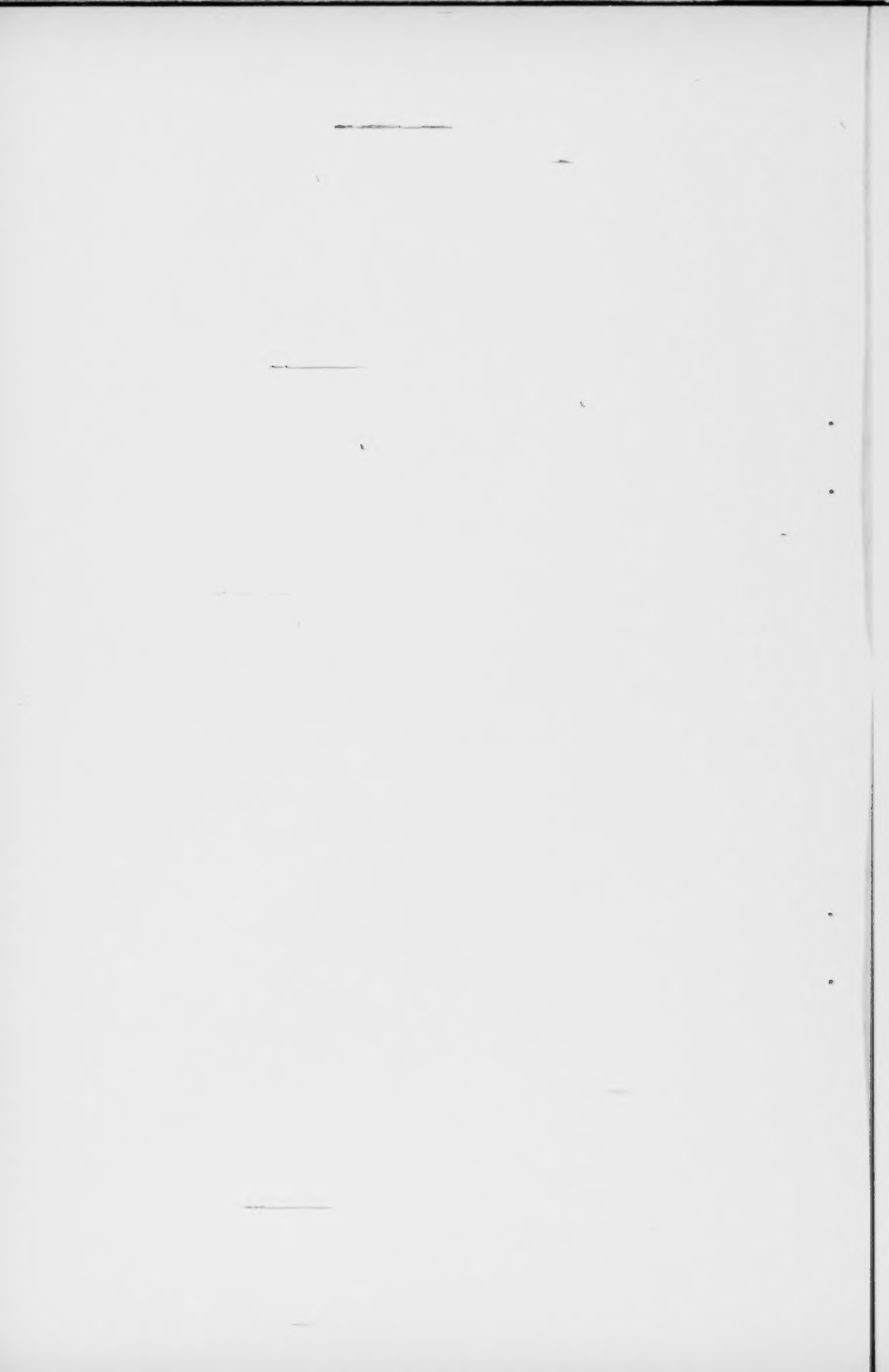


certiorari issue to review the judgment of the
Georgia Court of Appeals be granted.

This 28TH day of December, 1987

A handwritten signature in cursive script, reading "Roy L Hosch", written over a horizontal line.

Roy Lee Hosch



APPENDIX

Appendix A(A-1,A-2) Judgment dismissing appeal

Appendix B(B-1,B-2) Judgment denying motion for rehearing

Appendix C Judgment denying writ of certiorari

Appendix D(D-1,D-6) Judgment appealed

Appendix E(E-1,E-8) Final judgment and decree

Appendix F(F-1,F-2) Official Code of Georgia OCGA.
5-6-35

Appendix G(G-1,G-3) Georgia Court of Appeals
Rule 40

Appendix H(H-1,H-2) Order denying remittitur

Appendix I(I-1,I-2) Notice of filing of remittitur

Appendix J(J-1,J-3) Enumeration of Errors

Appendix K Georgia Supreme Court Rule
Division IV, Rule 25



APPENDIX A

In the Court of Appeals of Georgia

75517. HOSCH v. HOSCH.

P-215

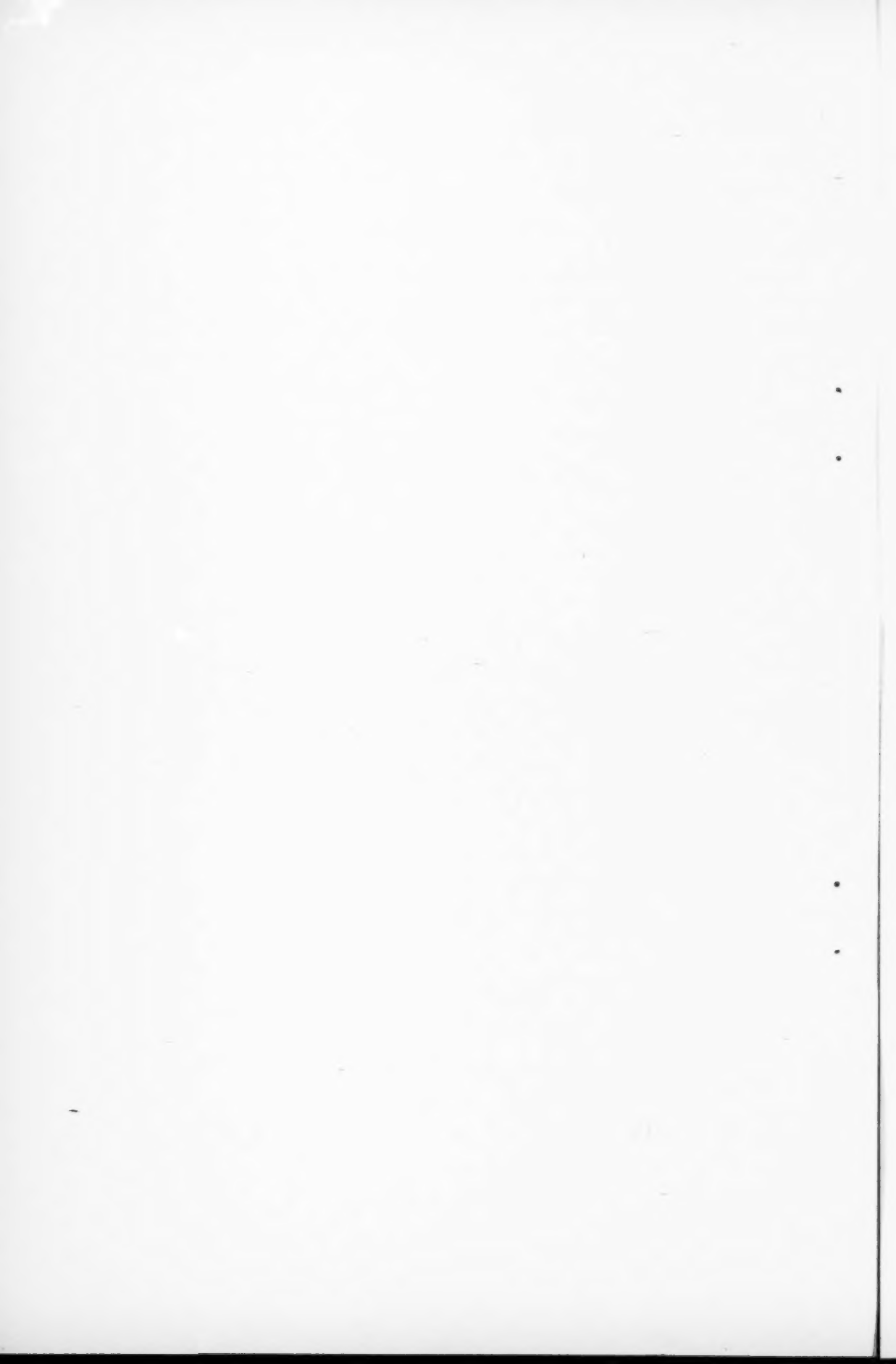
POPE, Judge.

Appellant brings this direct appeal from a judgment denying his petition to hold appellee in contempt of the final judgment and decree of divorce between the parties which granted him visitation rights to the parties' child. As visitation privileges are a part of custody, Buckner v. Davis, 175 Ga App. 849 (335 SE2d 745) (1985), this case can be reviewed only by application for discretionary appeal. OCGA 5-6-35 (a) (2). Appellant's failure to follow the



procedure necessary to secure a discretionary appeal requires dismissal of this case. Burnett v. Coleman, 170 Ga App. 394 (317 SE2d 546) (1984), and cits.

Appeal dismissed. Birdsong, C.J., and Deen, P.J., concur.



APPENDIX B

COURT OF APPEALS
OF THE STATE OF GEORGIA

ATLANTA

September 29, 1987

The Honorable Court of Appeals met pursuant to adjournment.

The following order was passed:

75517. Roy Hosch v. Mary Lucille Griffin Hosch

Upon consideration of the motion for a rehearing filed in this case, it is ordered that it be hereby denied.



COURT OF APPEALS OF THE STATE OF GEORGIA

CLERK'S OFFICE, ATLANTA SEPTEMBER 29, 1987

I certify that the above is a true
extract from the minutes of the Court of
Appeals of Georgia.

Witness my signature and the seal of
said court hereto affixed the day and
year last above written.

/s/ Victoria McLaughlin
CLERK



APPENDIX C

CLERK'S OFFICE, SUPREME COURT OF GEORGIA

Atlanta, October 28, 1987

Case No. 45093 Hosch v Hosch

The Supreme Court today denied the writ of
certiorari in this case.

All the justices concur.

Very truly yours,

JOLINE B. WILLIAMS, Clerk



APPENDEX D

IN THE SUPERIOR COURT OF FULTON COUNTY

STATE OF GEORGIA

MARY LUCILLE GRIFFIN HOSCH, :

Plaintiff, :

v. : CIVIL ACTION

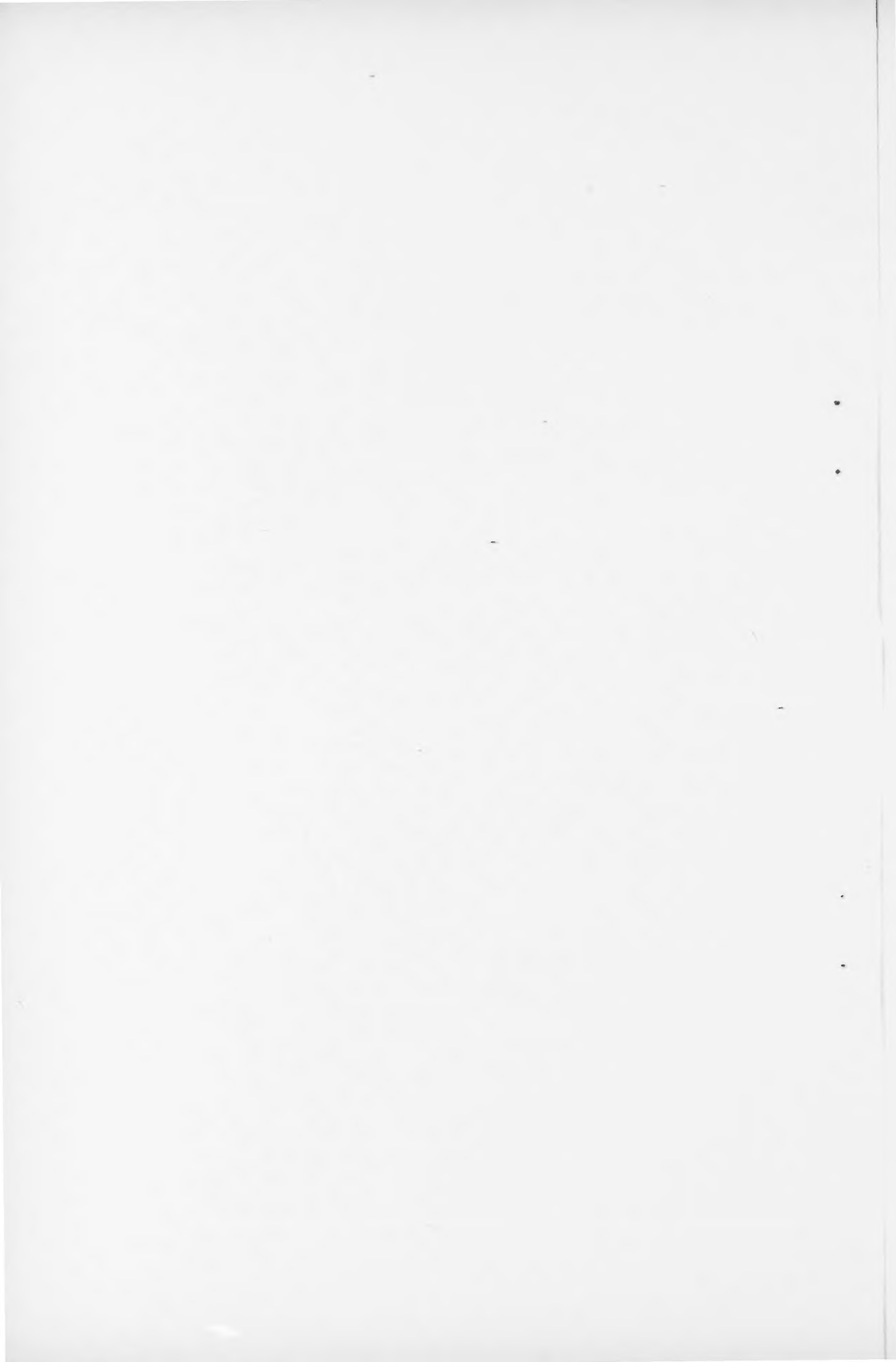
ROY LEE HOSCH, : FILE NO. C-79424

Defendant. :

ORDER AND JUDGMENT DENYING

DEFENDANT'S ATTACHMENT FOR CONTEMPT

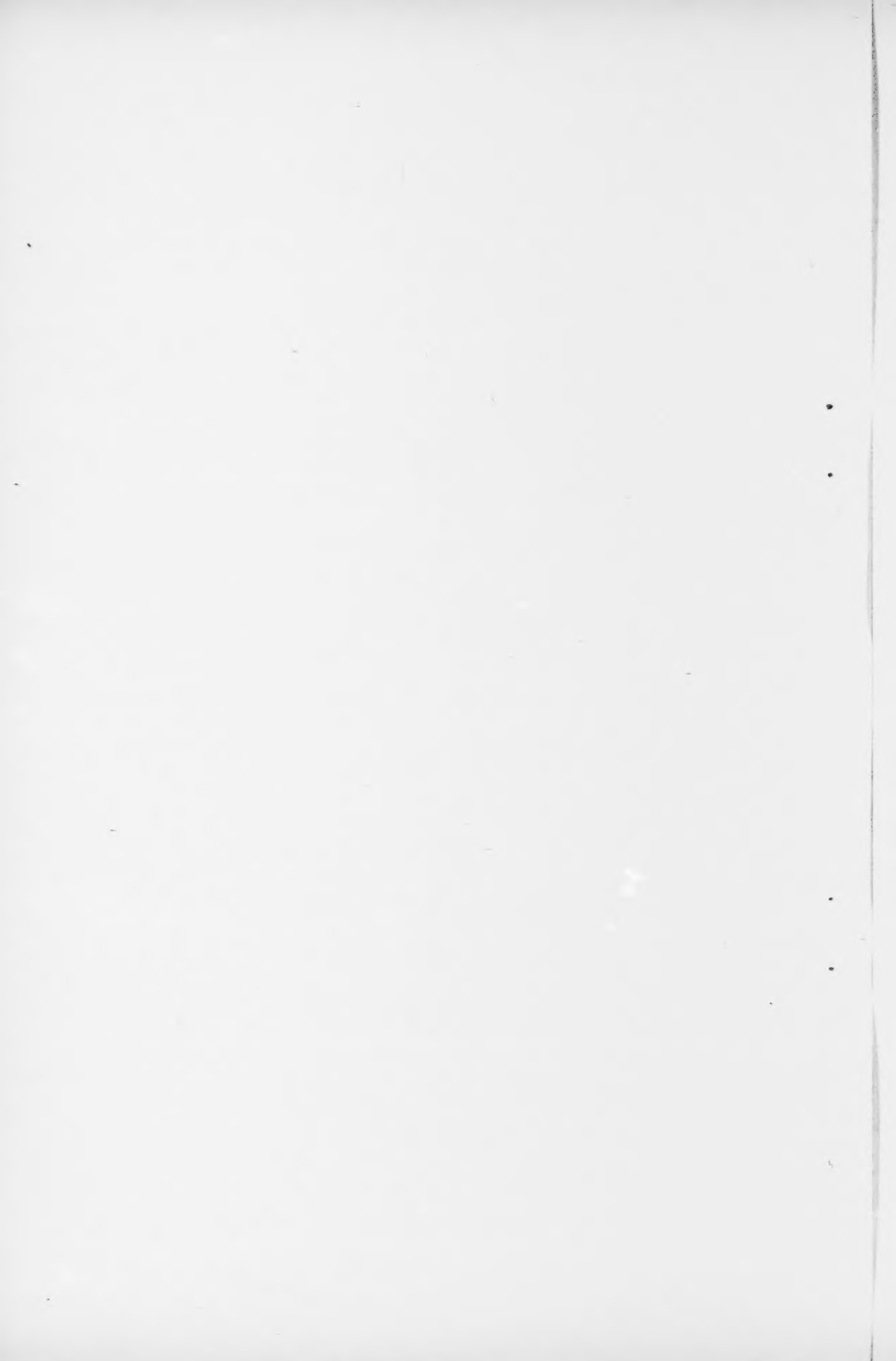
Once more the Defendant has brought a pro se action seeking to hold the Plaintiff in contempt of the child visitation provisions of the Final Judgment and Decree which was entered in this case in 1982.



The Decree provided that the Plaintiff was to have custody of their child Allison, and awarded the Defendant visitation privileges "... at reasonable hours of the day and on the first, third, and fifth weekends of each month from 9:00 Saturday morning until 5:00 Sunday afternoon."

Over the years, the parties have varied the weekend visitation hours to accomodate the Defendant's work schedule and have agreed that on the weekends during which he works, and which are the first, third, and fifth weekends, his visitations will not be overnight, but will occur during the day on Saturday. The Defendant has not had the child overnight for some time.

In his "Attachment", Defendant alleges violation of the Decree by Planitiff denying him visitation rights on Thanksgiving Day (November 27, 1986), on Saturday December 6, 1986, on Saturday March 14, 1987, and on Saturday March 28, 1987.



The defendant also believes that the Plaintiff has violated the agreement by writing a letter to him establishing pick-up and delivery times for visitations on the first, third, and fifth Saturdays.

The petition for contempt is denied. At the hearing on the Attachment, no evidence was presented by the Defendant that the Plaintiff has willfully violated the Decree. Three of the specific dates of which the Defendant complains are not first, third, or fifth weekends and therefore there is no ground for a complaint. As to the lack of visitation of December 6, 1986, there is no evidence to support the Defendant's position that he wanted the child for the weekend and that the visitation was willfully denied. As to the Plaintiff's letter establishing pick-up and delivery times, this was done to accomodate the Defendant's work schedule and to establish some



ground rules for those Saturdays on which Defendant was entitled to have a visitation but is working. Nothing in the letter is in violation of the Decree. The Defendant has little ground for complaint since the letter merely reflects what has generally been the practice between the parties, and the Defendant does not exercise his overnight visitation rights.

The Defendant is entitled to visitation only on the first, third, and fifth weekends within the hours set forth in the Decree. Any additional visitations are authorized only if both parties agree. Neither party can create additional visitation times without the agreement of the other party.

The Court further finds that the "Defendant's Attachment for Contempt" lacked substantial justification. Therefore, pursuant to O.C.G.A. 9-15-14, the Court awards attorney's fees to be paid

by the Defendant to Plaintiff's attorney to cover the cost to the Plaintiff of defending and asserting her rights against the Defendant's claim. At the hearing, Plaintiff's counsel advised the Court of his expenditure of time on behalf of the Plaintiff. The Court finds that the amount of reasonable attorney's fees is \$200.00. The Defendant is directed to pay Mr. Lanier Randall, Plaintiff's counsel, this amount within 30 days of the date this order is signed.

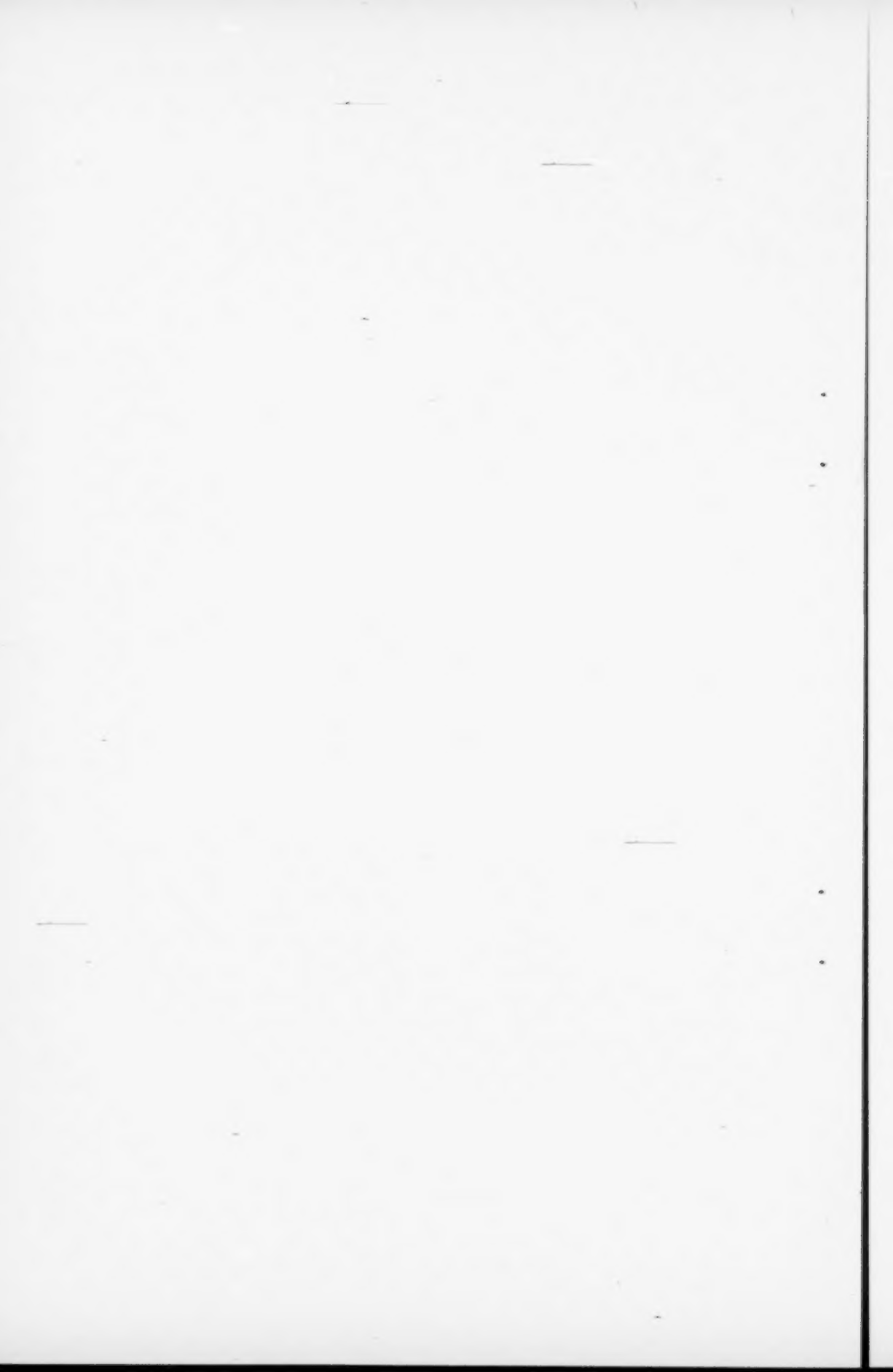
SO ORDERED, this 5th day of May, 1987.

/s/ Don A. Langham
DON A. LANGHAM, Judge
Superior Court of Fulton County

Copies to:

Mr. Lanier Randall, Esq.
308 Summit South Building
777 Cleveland Avenue, SW
Atlanta, GA 30315

Mr. Roy Lee Hosch
2418 Stone Road
Apartment 4
East Point, GA 30344



APPENDIX E

IN THE SUPERIOR COURT OF FULTON COUNTY

STATE OF GEORGIA

MARY LUCILLE GRIFFIN HOSCH, :

Plaintiff, :

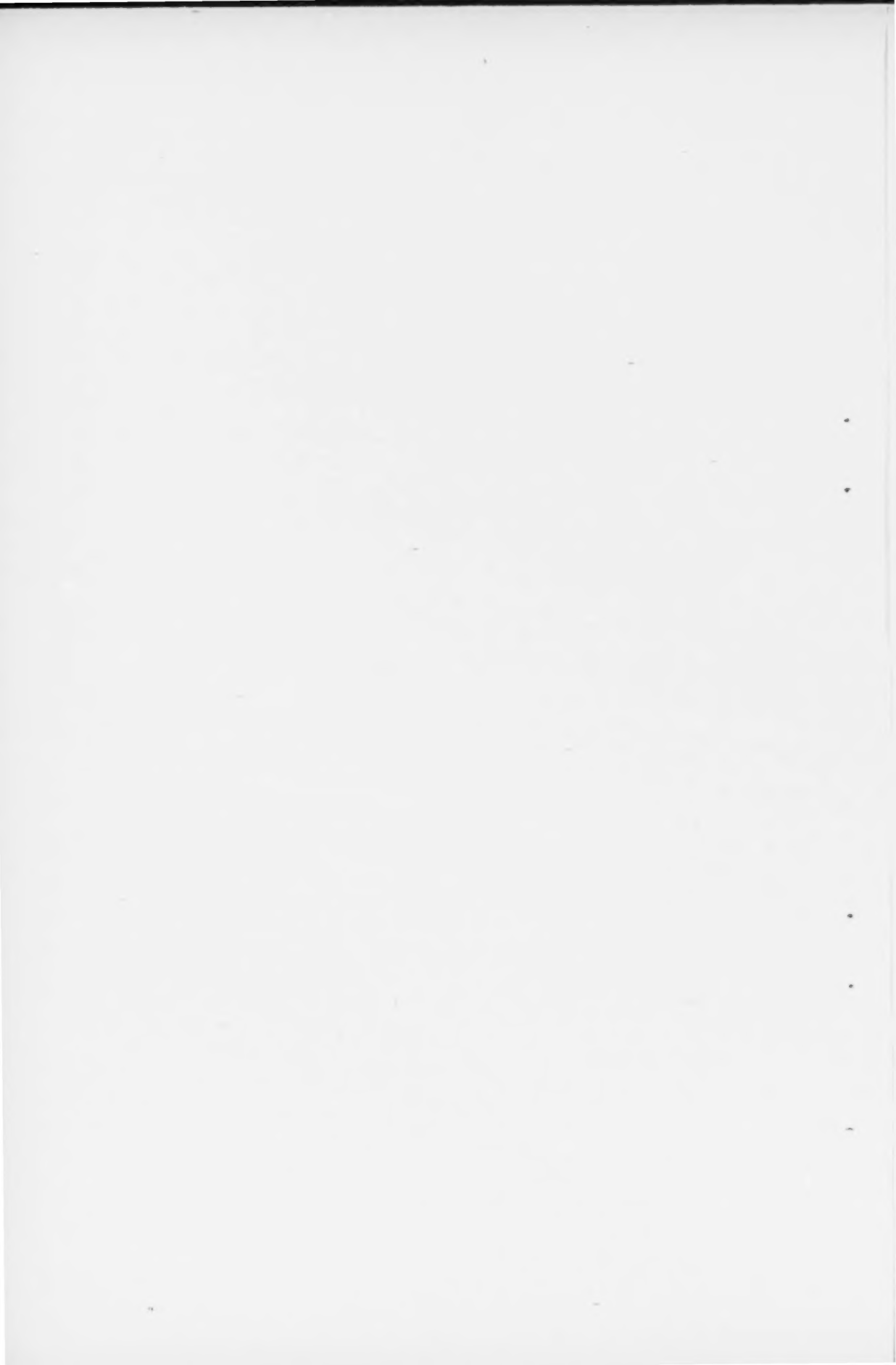
v. : CIVIL ACTION

ROY LEE HOSCH, : FILE NO. C-79424

Defendant. :

FINAL JUDGMENT AND DECREE

Upon consideration of this case upon evidence as provided by law, it is the judgment of the Court that a total divorce, i.e., a divorce a vinculo matrimonii, be granted between the parties hereto, upon the legal principles. And it is considered ordered, and decreed by the Court that the marriage contract heretofore entered into between the parties to this case, from and after this date, be and is set aside and dissolved as fully and

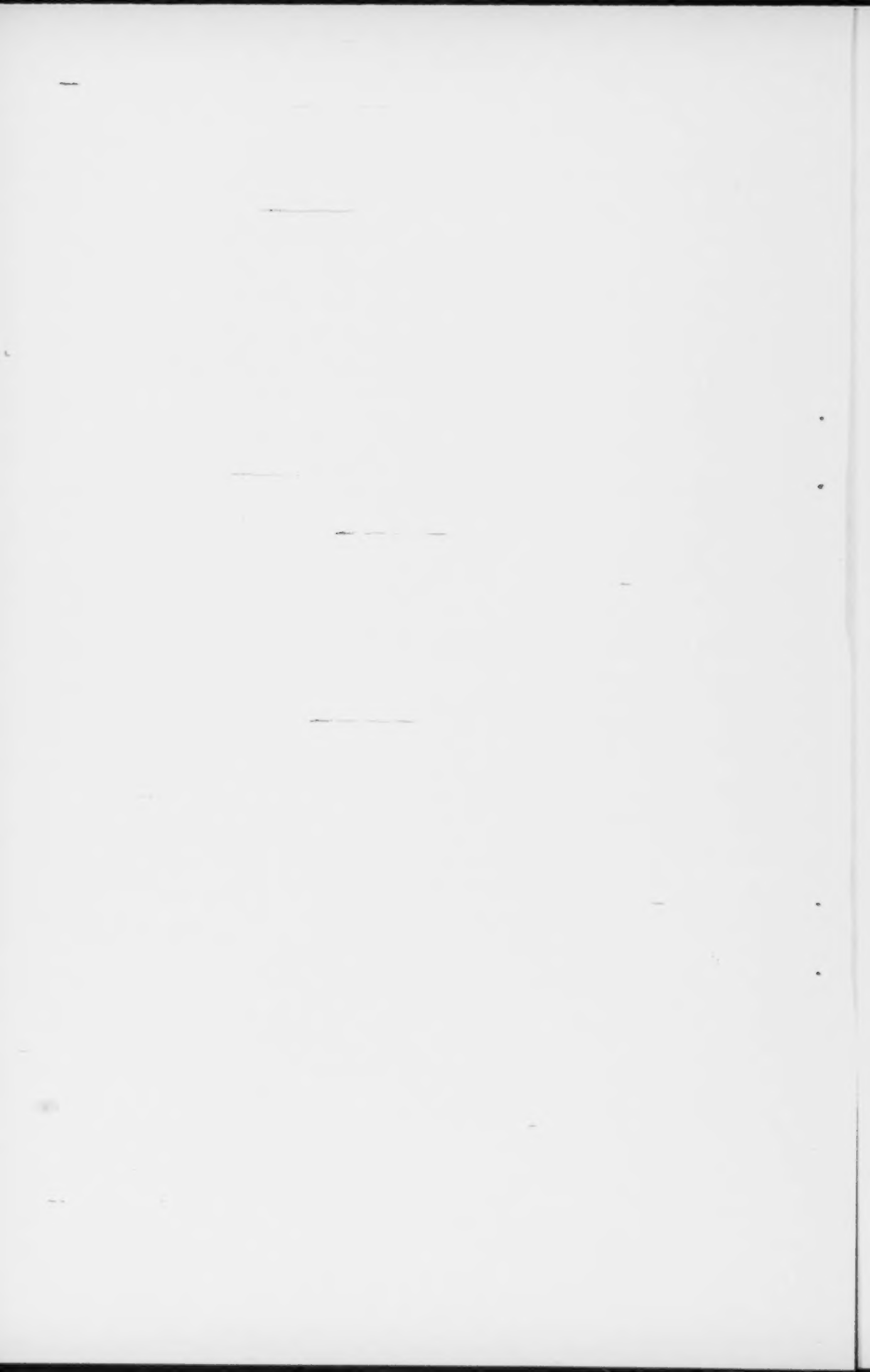


effectually as if no such contract had ever been made or entered into, and

MARY LUCILLE GRIFFIN HOSCH AND ROY LEE HOSCH, Plaintiff and Defendant, in the future shall be held and considered as separate and distinct persons altogether unconnected by any nuptial union or contract whatsoever, and both shall have the right to remarry.

1.

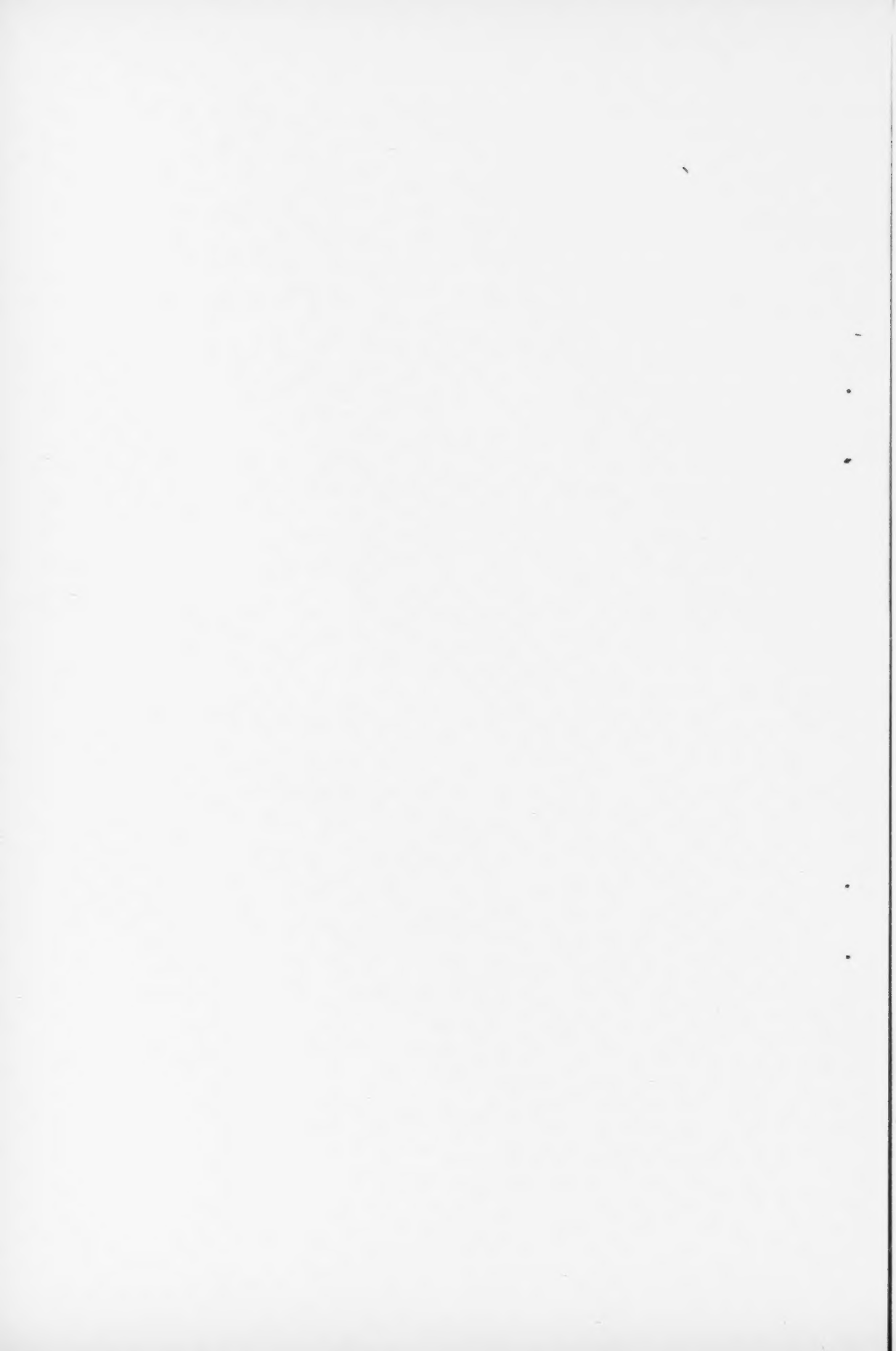
The permanent and exclusive custody of the child, ALLISON, is awarded to the Plaintiff; the Defendant is awarded visitation privileges at reasonable hours of the day and on the first, third, and fifth weekends of each month from 9:00 Saturday morning until 5:00 Sunday afternoon. A month is deemed to have a fifth weekend if it has a fifth Saturday. The Defendant shall call for and return the Child promptly. Failure to exercise a weekend visitation privilege is a default.



2.

The Plaintiff is awarded the residence, and title to, and all of Defendant's equity in the residence at 2973 Forest Park Road, Atlanta, Fulton County, Georgia and the Defendant shall promptly, upon submission to his attorney, execute a properly witnessed Warranty Deed conveying all of his right, title and equity to the Plaintiff subject only to one loan deed incurred at the time of Defendant purchased said realty, and promptly return same to Plaintiff's attorney.

Plaintiff shall assume the debt secured by said mortgage instrument according to the tenor of the said instrument and the Note Secured thereby. Defendant shall promptly deliver all documents, including copies of settlement statements reflecting the balance and condition of the loan to the Plaintiff.



3.

The Defendant shall pay to the Plaintiff for the support of the minor child, Allison, the sum of Five Hundred Fifty Dollars (\$550.00) per month, payable \$275.00 on or before the first day of each month and \$275.00 on or before the fifteenth day of each month, coommencing March 1, 1982, and a like amount on the first and fifteenth days of each month thereafter until the child, Allison, attains the age of eighteen years, marries, is legally adopted, or departs this life.

4.

The Defendant shall pay to the Plaintiff, for the support of the Plaintiff, the sum of Two Hundred Fifty Dollars (\$250.00) per month, payable \$125.00 on or before the first day of each month and \$125.00 on or before the fifteenth day of each month, commencing March 1, 1982 and a like amount

on the first and fifteenth days of each month thereafter until the Plaintiff remarries. Said alimony for the support of the Plaintiff shall not be a charge against the Defendant's Estate.

5.

From the household goods, furniture, fixture and appliances, the Defendant is awarded one color television, one stereo, typewriter, desk, one "queen size" bed and two (2) sets of queen size sheets; one four drawer chest of drawers; all guns and his tools; one red chair and end table, one "round table" in bedroom, one lamp in living room; the purchased telephone; four (4) place settings from eight place setting set of brown dishes with black floral pattern; three (3) towels; all AMWAY products, these being the items awarded to the Defendant in the Temporary Order of October 12, 1981; all other furniture, fixtures, furnishings, and appliances in the marital residence on October 12, 1981 are awarded to the Plaintiff.

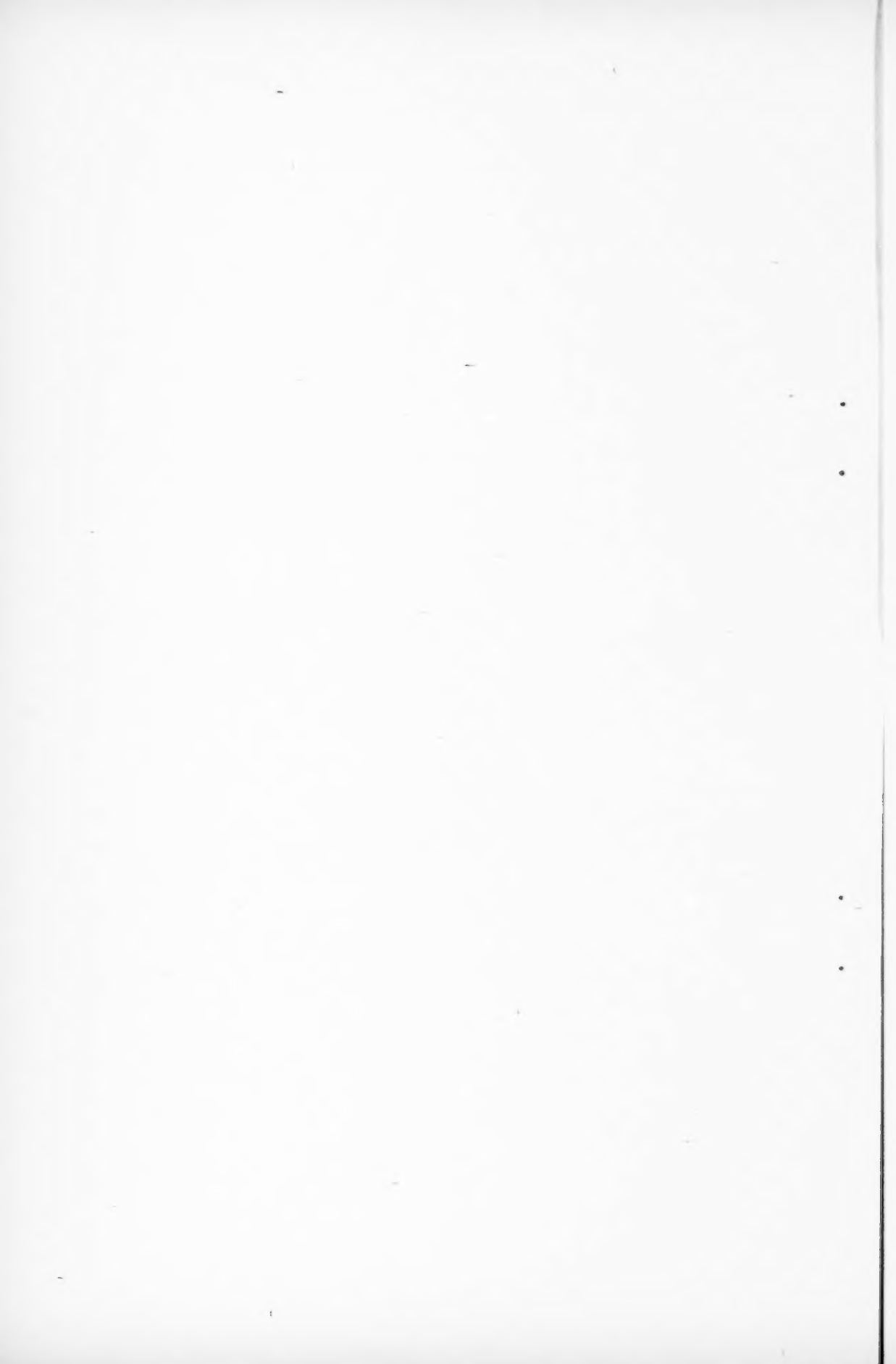


6.

The Plaintiff is awarded, against the Defendant, the sum of One Thousand-One Hundred Eighty Dollars (\$1,180.00) to be paid instanter, by the Defendant to the Plaintiff, i.e., on or before March 23, 1982.

7.

The Defendant is ordered to make the child, Allison, the sole beneficiary on the \$50,000 face value policy of insurance on his life through his employer, Delta Air Lines, and to retain said child as sole beneficiary for so long as Defendant has an obligation for the support of said child under Paragraph 3 hereof; in the event that for any reason said policy is terminated or reduced, the Defendant shall, without any lapse in said protection, obtain a substitute policy affording equal protection for said child Plaintiff may



require, aid upon her request, Defendant shall provide proof of such insurance.

8.

The Defendant shall retain the child, Allison, as a beneficiary on the group health policy through his employer and cooperate in securing the benefits thereof for said child, be responsive to Plaintiff's request for assistance in securing said benefits; in the event that such benefits are at any future time terminated, the Defendant shall promptly and without any lapse obtain a substitute policy affording the child equal protection; the Plaintiff may require evidence of such insurance; this obligation shall continue for so long as Defendant has any obligation for the support of the child under Paragraph 3.



9.

In addition to the award of attorneys fees contained in the Temporary Order of October 12, 1981, award is not cancelled by this Judgment, but expressly remains of full force and effect, the Defendant shall pay directly to the Plaintiff's attorney at his office, Suite 308, Summit South, 777 Cleveland Avenue, SW, Atlanta, Georgia 30315, the additional sum of \$350.00 payable \$70.00 on or before the first day of April, 1982, and a like amount on or before the first days of the four succeeding months.

The COST of these proceedings are taxed against the Defendant. Decree entered this 1st day of March, 1982, nunc pro tunc, February 23, 1982.

/s/ Joel J. Fryer
Judge SC, AJC

Prepared and presented by

Attorney for Plaintiff

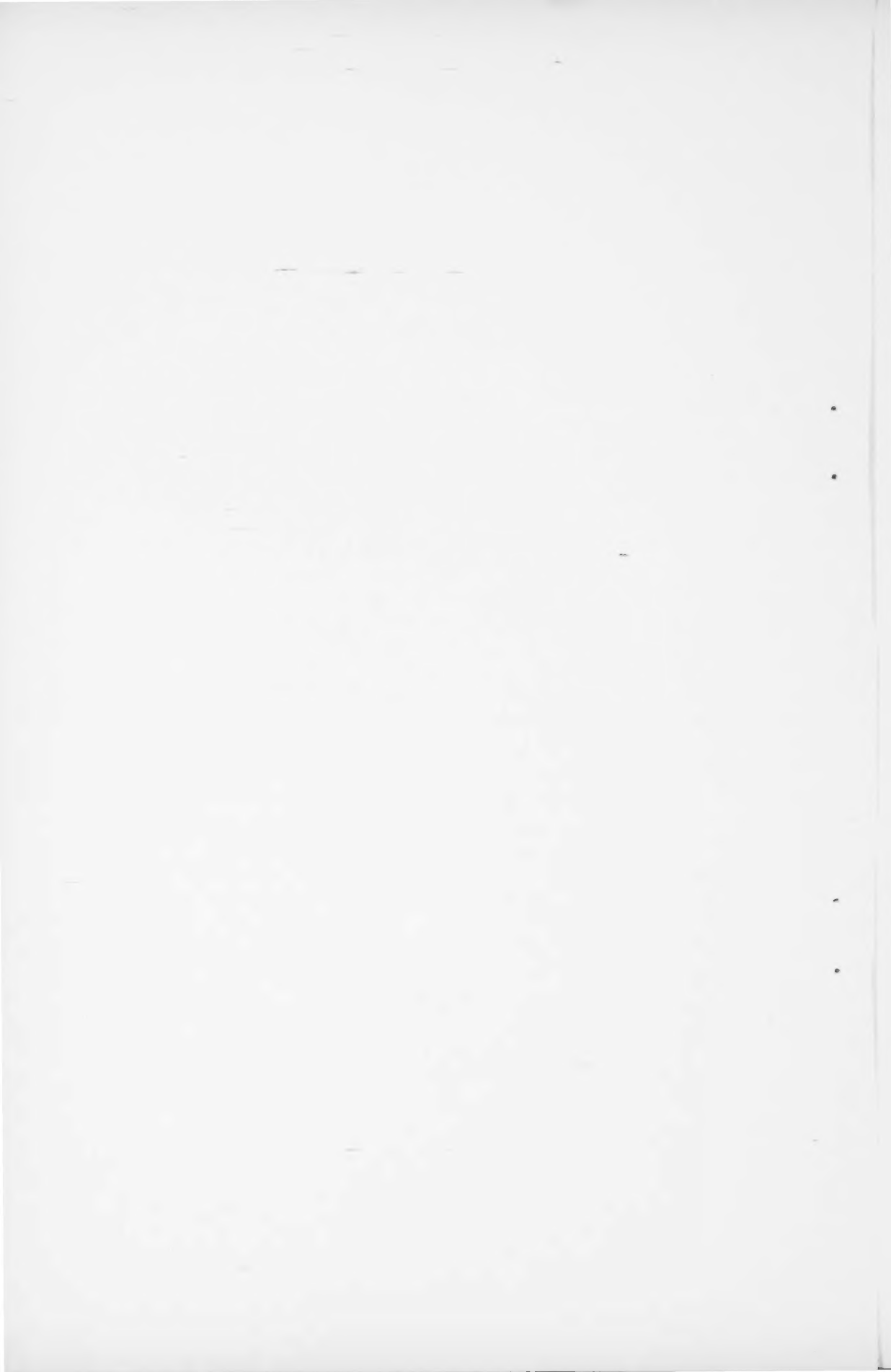


APPENDIX F

5-6-35 Cases in which application for appeal required; contents, filing, and service of application; exhibits; response by opposing party; issuance of appellate court order granting or denying appeal; procedure following grant of appeal; supersedeas.

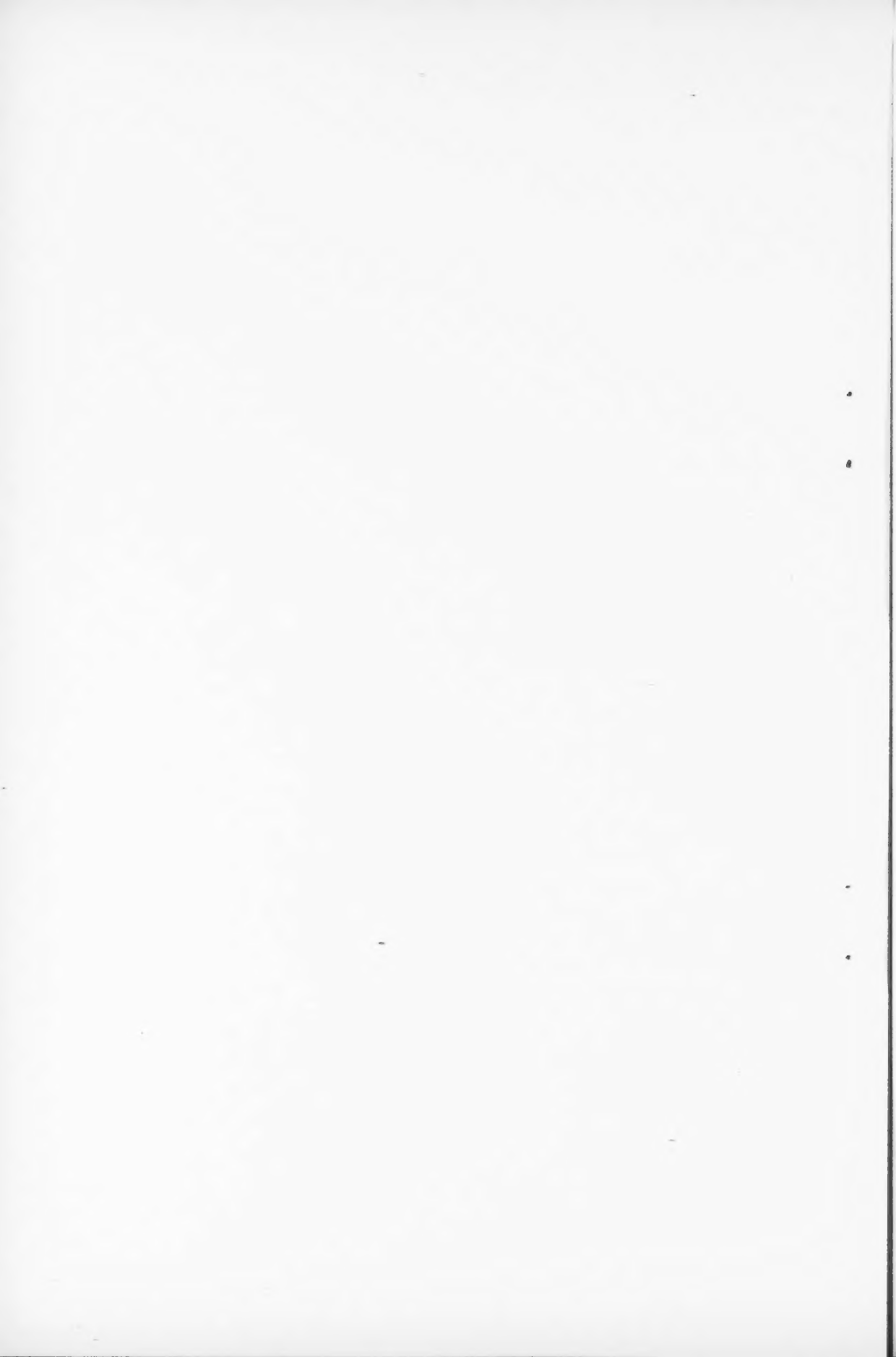
(a) Appeals in the following cases shall be taken as provided in this Code section:

1. Appeals from decisions of the superior courts reviewing decisions of the Board of Workers' Compensation, auditors, state and local administrative agencies, and lower courts by certiorari or de novo proceedings; provided, however, that this provision shall not apply to decisions of the Public Service Commission and probate courts and to cases involving ad valorem taxes and condemnations.



2. Appeals from judgments or orders granting or refusing a divorce or temporary or permanent alimony, awarding or refusing to change child custody, or holding or declining to hold persons in contempt of such alimony or child custody judgment or orders.

(b) All appeals taken in cases specified in subsection (a) of this Code section shall be by application in the nature of a petition enumerating the errors to be urged on appeal and stating why the appellate court has jurisdiction. The application shall specify the order or judgment being appealed and, if the order or judgment is interlocutory, the application shall set forth, in addition to the enumeration of errors to be urged, the need for interlocutory appellate review.



APPENDIX G

XVIII. PETITION TO ALLOW AN APPEAL

Rule 40. Leave to Appeal, Types of Cases.

Appeals in the following cases shall be taken by petition for leave to appeal as provided in OCGA §5-6-35:

- (1.) Appeals from decisions of the Superior Courts reviewing decisions of the State Board of Workers' Compensation, the State Board of Education, auditors, state and local administrative agencies, and lower courts by certiorari or de novo proceedings; provided, however, that this provision shall not apply to decisions of the Public Service Commission and probate courts and to cases involving ad valorem taxes and condemnations;



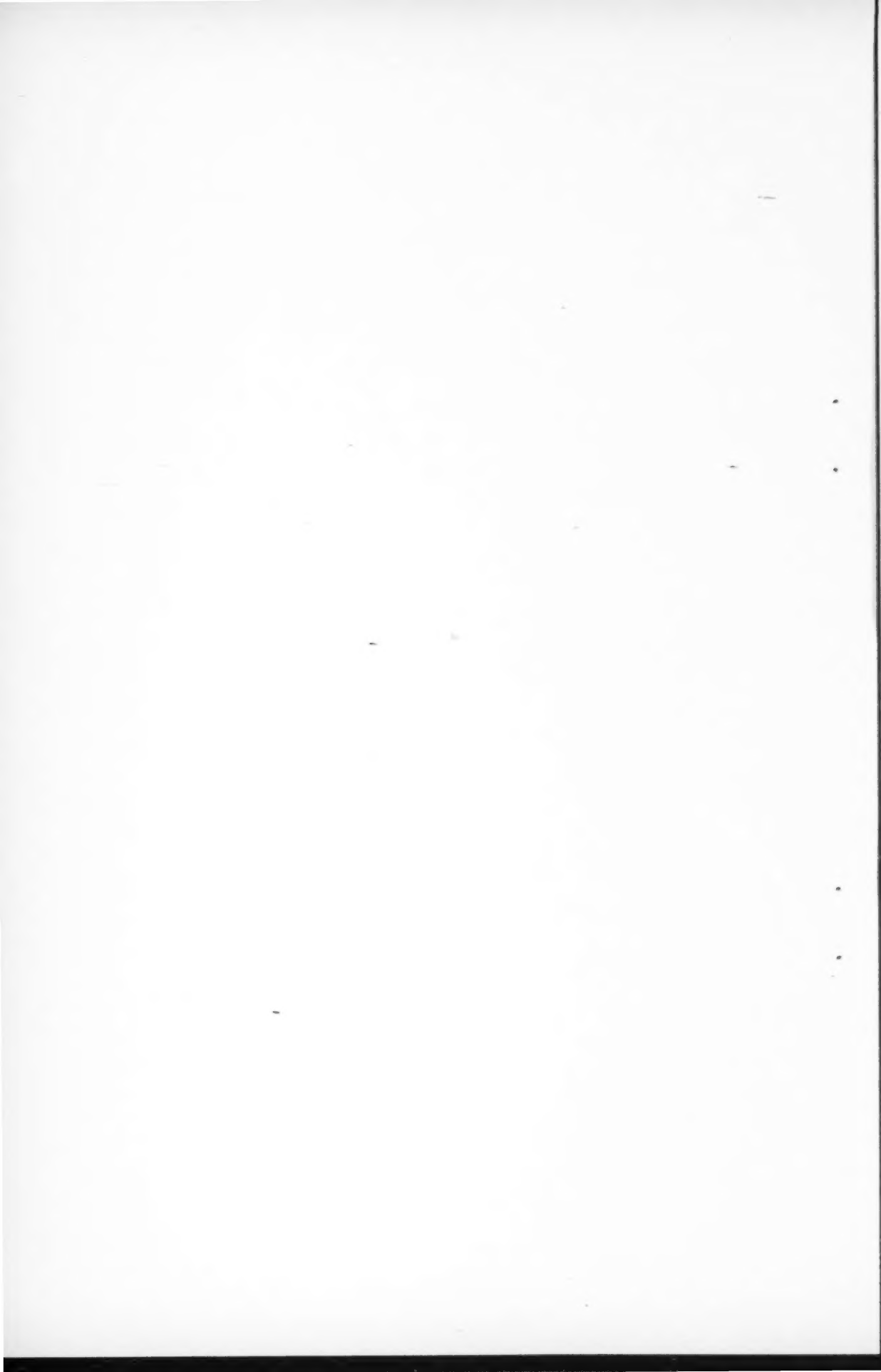
(2.) Appeals from judgments or orders in domestic relations cases over which this Court has jurisdiction, including, but not limited to, awarding or refusing to change child custody, or holding or declining to hold persons in contempt of such judgment or orders;

(3.) Appeals from cases involving distress or dispossessory warrants in which the only issue to be resolved is the amount of rent due and such amount is \$2,500 or less;

(4.) Appeals from cases involving garnishment or attachment, except as provided in OCGA § 5-6-34 (a) (5);



- (5.) Appeals from orders revoking probation;
- (6.) Appeals in all actions for damages in which the judgment is \$2,500 or less;
- (7.) Appeals, when separate from an original appeal, from the denial of an extraordinary motion for new trial;
- (8.) Appeals from orders under OCGA§9-11-60(d) denying a motion to set aside a judgment.



APPENDIX H

COURT OF APPEALS
OF THE STATE OF GEORGIA

ATLANTA

November 30, 1987

The Honorable Court of Appeals met pursuant to adjournment.

The following order was passed:

75517. ROY LEE HOSCH v. MARY LUCILLE GRIFFIN HOSCH

Having considered the appellant's motion to stay the remittitur pending his application for writ of certiorari before the United States Supreme Court, that motion is hereby denied pursuant to Rule 49 of the Rules of the Court of Appeals.

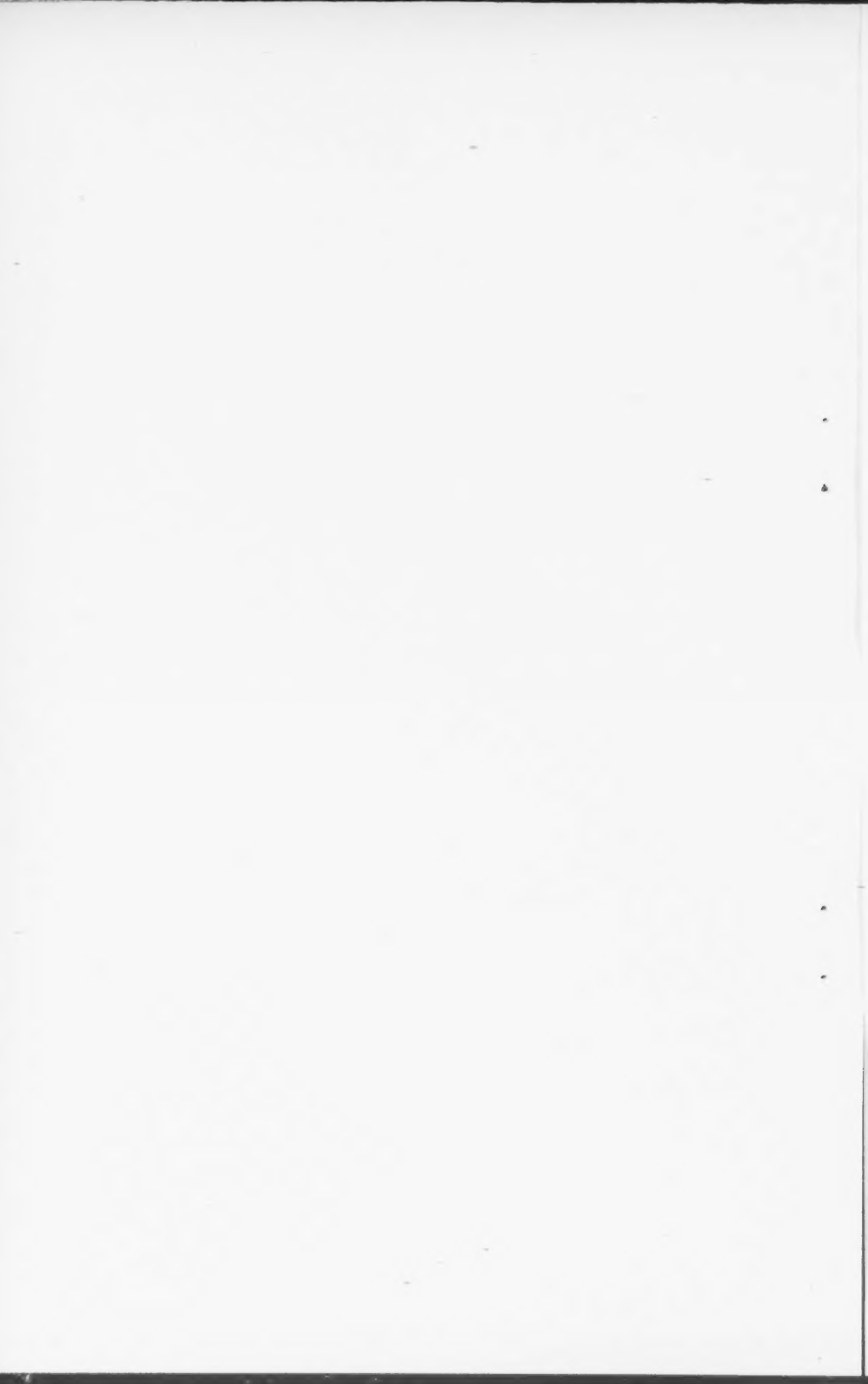
Court of Appeals of the State of Georgia
Clerk's Office, Atlanta November 30, 1987

I certify that the above is a true
extract from the minutes of the
Court of Appeals of Georgia.

Witness my signature and the seal
of said court hereto affixed the
day and year last above written.

/s/ Victoria McLaughlin

CLERK



APPENDIX I

REMITTITUR

COURT OF APPEALS
OF THE STATE OF GEORGIA

ATLANTA September 15, 1987

The Honorable Court of Appeals met pursuant to adjournment.

The following judgment was rendered:

75517. ROY LEE HOSCH v MARY LUCILLE GRIFFIN HOSCH
(C-79424)

This case came before this court on appeal from the Superior Court of Fulton County, and, after argument had, it is considered and adjudged that the appeal be dismissed.

Birdsong, C.J., Deen, and Pope, J., concur.



IT IS ORDERED THAT THE JUDGMENT OF THE
Court of Appeals of the State of Georgia
IN THE WITHIN STATED CASE, BE AND THE SAME IS
HEREBY MADE THE JUDGMENT OF THIS COURT.

THIS THE 7th DAY OF December 1987.

/s/ Don A. Lanaham

JUDGE FULTON SUPERIOR COURT, A.J.C.

BILL OF COSTS, \$30.00

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta,

I certify that the above is a true extract
from the minutes of the Court of Appeals of
Georgia, and that
paid the above bill of costs.

Witness my signature and the seal of said
court hereto affixed the day and year last
above written.

/s/ Victoria McLaughlin CLERK



APPENDIX J

IN THE

ROY LEE HOSCH, :

Appellant : CIVIL ACTION

v :

MARY LUCILLE GRIFFIN HOSCH, : CASE NO. 75517

Appellee :

ENUMERATION OF ERRORS

Now comes the Appellant, ROY LEE HOSCH, and petitions this Court for leave to appeal from the judgment entered on May 5, 1987, in the case of "MARY LUCILLE GRIFFIN HOSCH v ROY LEE HOSCH, File No. C-79424: Defendant's Attachment For Contempt", on the following grounds:

1. The Court abused it's discretion by "modifying" the "Visitation Clause" of the Final Judgment And Decree, (Russell v Mohr-Well Lumber Co., 102 Ga. 563, and U.S. Constitution, Amend. 5, note 10, page 432).
2. No request was made to modify the "Visitation clause".
3. The Court erred by not holding the Appellee in contempt of the "visitation clause" of the Final Decree, when Appellee admitted to violating said order, in her "Response" and by letters, (Ga. Code 9-14-23, page 722 Darby).
4. The Court erred by awarding to Appellee, attorneys fees, Keith v Keith Case No. 37833 Ga. Reports, Vol. 284, 1981-82, pages 819-820.

JURISDICTION

This Court has jurisdiction of the appeal and not the Supreme Court for the following reason(s); (a.) The appeal involves the application of existing rules at law; (b.) The Appellant is in litigation with the Supreme Court; (c.) The visitation terms of the Final Decree have been accepted since it's filing.

Submitted; This 14th day of August, 1987

/s/ Roy Lee Hosch
ROY LEE HOSCH, Appellant
2418 Stone Road, Apt. 4
East Point, GA 30344



APPENDIX K

IV. DISCRETIONARY APPEALS OF FINAL JUDGMENTS

Rule 25(a) An application for leave to appeal a final judgment in cases subject to appeal under OCGA § 5-6-35 (Code Ann. § 6-701.1) will be granted only when: 1.) Reversible error appears to exist, or 2.) The establishment of a precedent is desirable.

(b) Discretionary applications to appeal may be transferred to the Court of Appeals in the same manner in which applications to appeal interlocutory orders may be transferred pursuant to Rule 23.

(c) Applications for Discretionary Appeal shall contain a jurisdictional statement.

Compliance with the terms of Division IV does not relieve the applicant of the duty to file a notice of appeal as required by OCGA § 5-6-35 (g) (Code Ann. § 6-701.1) if the application is granted.

IN THE

SUPREME COURT OF THE UNITED STATES

ROY LEE HOSCH,

Petitioner

v

MARY LUCILLE GRIFFIN HOSCH, Respondent

PROOF OF SERVICE

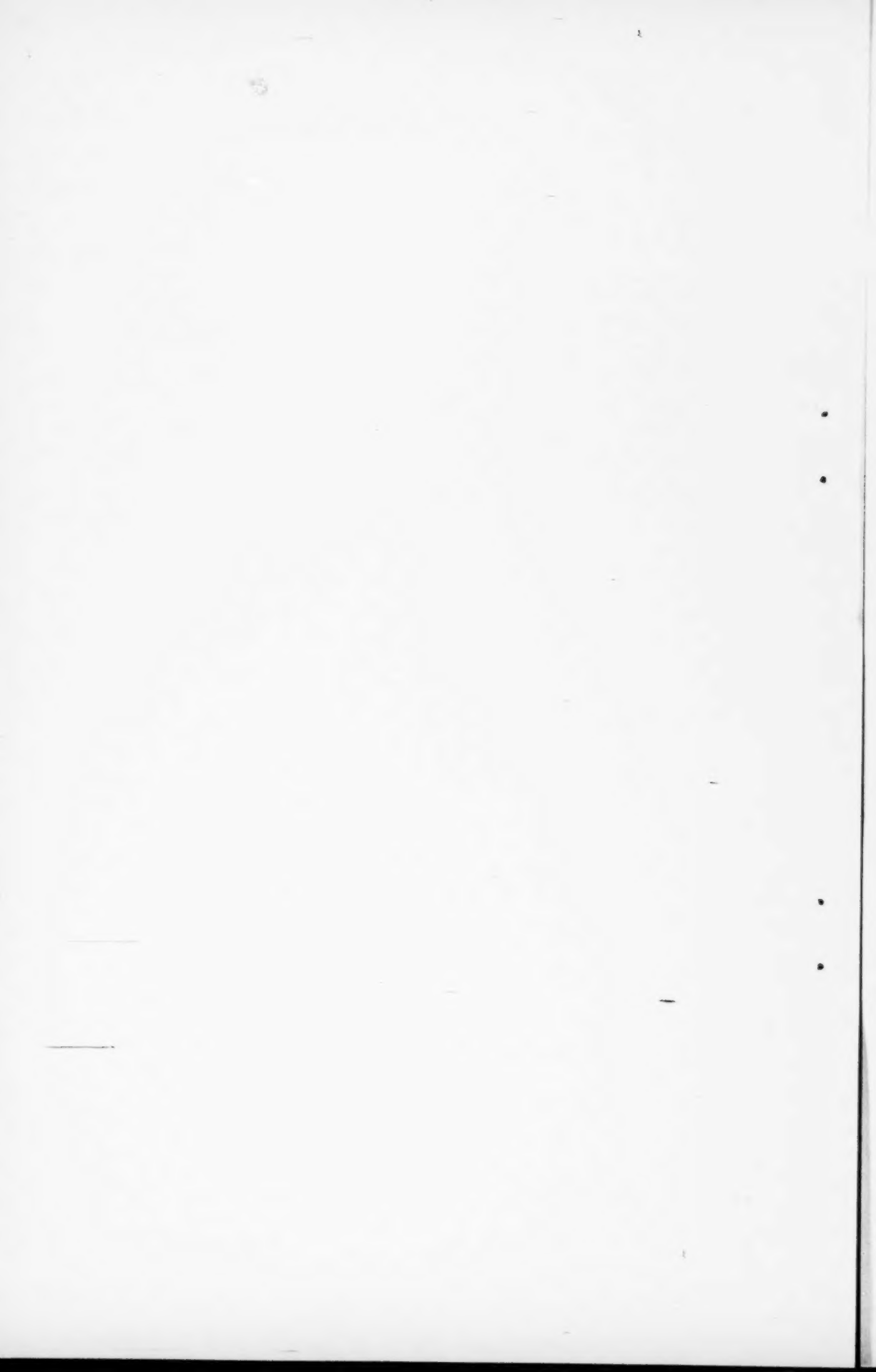
STATE OF GEORGIA)

COUNTY OF FULTON)

ROY LEE HOSCH, after being duly sworn,
deposes and says that pursuant to Rule 28.4(c)
and 28.5(c) of this Court he served the within
PETITION FOR WRIT OF CERTIORARI TO THE GEORGIA
COURT OF APPEALS on counsel for Respondent, Mr.
Lanier Randall and Attorney General Mr. Michael J.
Bowers, by certified mail at the following
addresses.

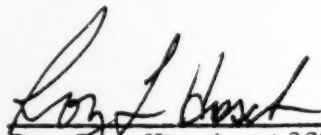
Mr. Lanier Randall
Suite 308
Summit South Building
777 Cleveland Avenue, S.W.
Atlanta, Georgia 30315

and



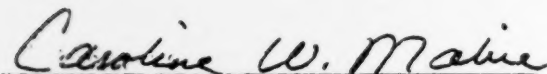
Attorney General
Mr. Michael J. Bowers
132 State Judicial Building
Atlanta, Georgia 30334

and depositing the same in the United States Mail
at East Point, Georgia on the 28th day of
December, 1987.



Roy Lee Hosch, Affiant

Subscribed and sworn to before me
this 28 day of December, 1987



Notary Public in and for said
County and State
My comm. expires 2/22/89